its connections, in the handling of traffic over through routes which are competitive with routes involving interchange between the applicants without participation by foreign intermediate railroads, which heretofore have been considered not practicable from the point of view of Seaboard or Coast Line as independent railroads.

55. Subject to conditions such as are specified hereinafter under the heading "Recommendations", the transaction herein considered (1) would not adversely affect adequate transportation service to the public; (2) within the public interest, would include other railroads in the territory involved, if requests for approval of such inclusion in the transaction herein, are filed within the period jurisdiction would be retained for that purpose; (3) would not result in an increase in total fixed charges; and (4) would provide fair and reasonable protection of the interests of the carrier employees affected.

DISCUSSION AND CONCLUSIONS

Approval and authorization of railroad unifications, including proposed mergers of properties and franchises and related acquisitions of control and operation of carriers or portions thereof, are subject to the provisions

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of paragraph (2) and subparagraphs of section 5 of the act. The ultimate determination to be made by the Commission is that, subject to such terms and conditions and modifications which it may find to be just and reasonable, the transactions proposed by the applicants would be consistent with the public interest. The statute requires the Commission to give consideration to certain primary elements affecting the public interest, as follows: (1) The effect of the proposed transaction upon adequate transportation service to the public; (2) the effect upon the public in-

terest of the inclusion, or failure to include, other railroads in the territory involved in the proposed transaction; (3) the total fixed charges resulting from the proposed transaction; and (4) the interest of the carrier employees affected. In administering these provisions, the Commission must be guided by considerations for adequacy of transportation service, essential conditions of economy and efficiency, and appropriate provision and best use of transportation facilities. *New York Central Securities Corp.* v. *United States*, 287 U. S. 12 (25), *McLean Trucking Co.* v. *United States*, 321 U. S. 67 (82).

In determining whether a proposed transaction is consistent with the public interest, consideration must be given to the public directly affected by the proposed changes in transportation service, and the effect upon every segment of the total public. Where a part of the public would benefit by the proposed transaction and other parts would be injured, the question is whether the benefits outweigh the injuries. Where the evidence as to the alleged benefits and injuries is conflicting, and neither the benefits nor the injuries are clearly established, the question is whether the probable benefits overbalance the probable injuries. *Chicago, B & Q. R. Co. Control*, 271 I.C.C. 63 (146). As in all determinations within the jurisdiction of the Commission, the ultimate decision must be compatible with the standards declared by the Congress to be the National Transportation Policy, enacted September 18, 1940, as the preamble of the Interstate Commerce Act, as amended.

The numerous elements of fact and contentions of the parties in favor of and in opposition to the merger transactions herein, and the primary findings distilled from the mass of such material presents satisfactory justification for certain conclusions without the necessity for further discussion or documentation. For example, in light of the several conditions and other limitations which should be prescribed to protect various

interveners and the interests of others who might be jeopardized, the terms of the merger plan are just and reasonable. Notwithstanding the position of interveners alleging that the proposed ratio for the

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exchange of capital stock is unfair to the present holders of stock of Seaboard, and likewise mistreats the owners of Coast Line capital stock, the examiner is convinced that the ratio was properly reached by arms-length negotiation and is supported by adequate evidence of record. The minority stockholders showed only that it is possible to select particular items for analysis apart from other important elements, and thereby create impressions of unwarranted distortion or complete disregard of the rights and equities of one or another of the affected groups of stockowners. More persuasive is the approval of the merger transaction by more than 88 percent of the outstanding capital stock of Seaboard, and more than 93 percent of the Coast Line stock. Further, it is notable that investors in the mortgage securities affected herein have agreed to and approved modification of effective indentures necessary to implement the proposed plan to merge.

Discussion likewise is not necessary to conclude that upon approval of the proposed merger which is the primary transaction under consideration, it would be consistent with the public interest and considerations of national transportation policy to approve and authorize Seaboard or the surviving corporation (1) to acquire (a) control of the railroad carriers presently subsidiary to or affiliated with Coast Line; (b) Coast Line's rights under effective leases, and trackage and joint-use agreements pertaining to described lines of other railroads; and (c) motor-carrier operating rights held by Coast Line; (2) to issue common stock pursuant to the plan of merger; and (3) assume the liabilities and obligations of Coast Line.

The reasons which underlie the examiner's conclusions and recommendations pertaining to various issues in controversy in the record are discussed hereinafter under separately identified topics. Numerous specific contentions by the applicants and by the interveners, not separately discussed herein, are embraced in related topics covering broader areas of consideration. Conclusions and requested findings contrary to those contained in this report have been carefully considered and found to be without material significance or not justified.

Supplemental application. Mercantile's request for authority under section 5(2), to acquire indirect control of the merged company through its fiduciary and direct ownership of capital stock of Coast Line, ACL company, and Seaboard, is accompanied by Mercantile's challenge of the Commission's jurisdiction to grant the application, or, to consider Mercantile as a carrier subject to section 5(3). Any power to control the merged company with which Mercantile would become vested as a consequence of the proposed merger, necessarily

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would emanate from its present ownership of stock of the constituent companies. The effect of the conversion of Coast Line stock for that of the merged company would be the factor primarily determinative of Mercantile's power to control the merged company. The percentage of ownership of stock of Coast Line by the parent company, after operation of the stock exchange, would reflect itself in the ownership of about 15.2 percent of the stock of the merged company, which is less than half of the present total percent of ownership of the capital stock of the Coast Line. Thus, the direct power of ACL company, through whose interests Mercantile would claim any power to control the merged company, would be diluted; and combined with the other stock ownership interests of Mercantile, would total less than 18 percent of the voting power of the merged company. It is obvious therefore, that Mercantile

would acquire neither control, nor the power to exercise control of the merged company.

Further in this connection, the existing fiduciary holdings of Mercantile unavoidable would be reduced upon the occurrence of future events described in the attendant trusteeship agreements. At such times, which may begin at a relatively early date, the stock of ACL company and the merged company would be surrendered to the beneficial owners, and Mercantile's voting strength would decrease proportionately. As shown, the proposed merger and related transactions would not increase or otherwise extend the power of Mercantile to exercise control over the merged company. In the absence of any other special circumstances that would warrant a contrary finding, there is no valid reason to hold that Mercantile, which presently is not authorized to control any railroad despite its past ownership of stock of ACL company and Coast Line, is a necessary party to the proceeding herein. The supplemental application should be dismissed. The rationale in this instance is consistent with the tests prescribed by the Supreme Court as means of determining whether changes in inter-carrier relations constitute an acquisition of control within the meaning of section 5(2). See *Alleghany Corp.* v. *Breswick & Co.*, 353 U. S. 151 (169), and *Atlantic Coast Line R. Co. Merger*, 307 I.C.C. 614 (621).

Benefits. Many of the advantages achievable from the proposed merger of Seaboard and Coast Line would accrue to the persons especially interested in the ownership and operations of the merged company. Probably the most significant point of direct benefit developed in the record, pertains to the prospects of net savings and increased revenues of more than $38,000,000 per year compared to the difference between the combined revenues and operating expenses of Seaboard and Coast Line individually. While the sum mentioned is merely an estimate, it was arrived at by methods heretofore acceptable in merger

authorizations, and found to be reliable and generally predictive of operating and financial results

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under conditions of merger. Although interveners herein intimated that the prediction as to financial benefits is unduly optimistic and should be lower; others, equally interested, take the position that the forecast of annual benefits to the merged company should be higher, because the applicants understate the amount of traffic and revenues that would be diverted from competing and connecting railroads despite the interveners' best efforts to prevent such loss of traffic to themselves.

The predicted financial benefit to the merged company is reasonably probable. In fact, the prediction offered may be conservative in view of the terms and conditions which the applicants envision, and the fact that unless appropriate restrictions are spelled out and observed, even greater diversions from other railroads might be developed. However, with the imposition of additional conditions which should be prescribed herein to afford greater protection to other affected railroads against the potential disruptive activities of the merged company, the net monetary benefit resulting from the proposed merger would be reduced. Even if the eventual savings should reach only $15,000,000 or $20,000,000 per year following complete effectuation of the merger, the transactions under consideration would be adequately justified as a means of improving the ability of the railroad industry to continue rendering necessary transportation service to the public.

Evaluation of the effect upon the public other than the individuals comprising the stockowners, management, and retained employees of Seaboard and Coast Line, is made in view of each applicant enjoying status as a successful operating railroad, not in any foreseeable danger of financial difficulty. Also coloring the extent of the benefits that would accrue, is the fact

that the proposed merger would eliminate the present competition between the applicants to, from, and between the points they both serve directly, and in conjunction with other railroads via through routes in which each applicant separately participates. The applicants operate extensively within the Southeast, which has experienced population, industrial, and general business growth and prosperity during the past decade, to a degree substantially higher than the nation as a whole. Despite their importance to the area in providing a considerable proportion of the transportation requirements, the rate of growth of Seaboard and Coast Line has been markedly less favorable than that of industries engaged in other facets of the general economy. The applicants individually have made continuous efforts to encourage and develop passenger and freight traffic for movement by railroad. Nevertheless, because of the physical geography of the territory involved, particularly of Florida, and because a high proportion of the industry

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there is devoted to agricultural pursuits, the traffic and revenues of the applicants, commonly with other railroads, has been particularly amenable to serious inroads by regulated and exempt carriers by highway, water, and commercial airlines. Despite the evident economic stability, the recorded annual rate of return on investment and other measures of earnings and the applicants' ability to meet fixed costs and pay dividends have decreased, and are below the level of other vital industries which also seek to attract investment capital.

Prospective changes in operations and service which would contribute to accomplishing the financial benefit to the merged company, would be the consequence of improvements of the physical handling of traffic, and the providing of generally more efficient railroad service. Various advantages would inure directly to industrial, and other shippers and travelers having interests in certain localities and points

in areas served by the merged company or reached by interlining with other railroads. The proposed consolidation of the properties of the applicants under one management and ownership would permit economies produced by more efficient use of motive power and equipment; elimination of duplicate facilities; and savings in traffic and general expenses. The merged company would enjoy better control of operating costs and greater efficiency in meeting the competition of the other modes of transportation. Coordination of the applicants' separate duplicative facilities and operations, and elimination of unnecessary properties and services would permit better utilization of equipment and facilities; require lower capital expenditures for such requirements; and result in appreciable savings in annual carrying charges. Additionally, the merged company would be in a better position than the applicants as independent railroads, to seek more diversified traffic availability by instituting long range developmental programs to attract new industries to plant sites served by the merged company. Properties available for such development would include sites presently used for railroad operating facilities which would be released after consolidation of the duplicative facilities of Seaboard and Coast Line.

Injuries. Matters related to foreseeable disadvantages of the proposed merger of Seaboard and Coast Line to the users of railroad service include instances of adverse effect as a direct result of abandonments of lines and other changes in operations which the merged company would institute. Injuries also would befall the present employees of the applicants whose positions would be downgraded or terminated, and those employees of railroads other than the applicants who would be

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similarly affected following the merger. Also, to the extent that unemployment of railroad personnel occurs in the same community or area, the net effect would be a cause of serious economic dis-

ruptions to the detriment of the local governments and populations. Other injuries, of importance because of their effect upon the benefits anticipated by the applicants, are predicated upon potential losses in traffic availablity and reduced gross revenues that would be suffered by other railroads which presently participate in the movement of through traffic over routes involving interchange with either or both the applicants.

The adverse results such other railroads experience would be in proportion to the amount of traffic and revenues lost because of diversion from their lines to routes of the merged company. Those of the other carriers whose loss of revenues would be of more than token importance, inevitably would be compelled to reduce operating costs, and in some instances, would find it necessary to discontinue part or all their service. Eventually, they might be forced to abandon portions of the affected lines and operations. Thus, because of the merger proposed herein, such other railroads would encounter new problems and difficulties, the severity of which would become more pronounced as the modifications of operations by the merged company become fully consummated. As to several of the railroad interveners herein, which are acknowledged to be weak carriers, of marginal finaficial stability, loss of the divertible traffic would result in early insolvency and loss of their general status as independent railroads. As such events occur, shippers and receivers of freight who rely upon the existing service of the applicants in conjunction with routing via lines of such other railroads, would be confronted with transportation service that would tend to become less adequate and more costly. In the same manner, any military and national defense facilities located on lines of adversely affected other railroads and dependent upon them to provide the principal transportation requirements of the bases, would suffer from deterioration of service indirectly caused by the prospective operations of the merged company.

The impact of the foregoing types of injuries and others that would flow from approval of the merger herein can be reduced in severity by adoption of appropriate conditions to be imposed as special requirements upon the merged company. In that connection, imposition herein of the so-called "standard conditions" to assure perpetuation of existing open routes and channels of trade would not provide adequate protection to the other railroads referred to hereinabove, and to the shippers, industries, and communities which depend upon the ability of such carriers to continue satisfactory operations.

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Historically, the standard conditions have been prescribed by the Commission, and appear to have satisfactorily served their intended purpose of protecting affected connecting railroads in instances in which the applicants concerned could be described as follows: (1) Essentially complimentary to each other, as end-to-end connecting carriers, *Spokane International R. Co. Control*, 295 I.C.C. 425; (2) partially competitive, but, for many years corporately related through stock ownership and operated separately, *Louisville & N. R. Co. Merger*, 295 I.C.C. 457; and (3) complementary with a relatively small amount of duplicative side-by-side mileage, but, both applicants situated in dire financial position and in need of considerable strengthening, *Erie R. Co. Merger*, 312 I.C.C. 185.

In addition to the standard gateway conditions, other specific limitations should be adopted and prescribed in respect of the merged company's intercarrier relationships. As drafted, they would be particularly applicable for the reason that the applicants are financially strong, independent, side-by-side railroad carriers which are generally competitive with each other. The conditions, listed and discussed further hereinafter under a separate heading, would have the effect of limiting the extent of some of the direct benefits which the applicants anticipate would accrue to the merged company. Simultaneously, they

would provide safeguards which would visit less injuries to other railroads and the public generally. Under such conditional restrictions, the benefits which would follow consummation of the transactions herein would far outweigh and overbalance the accompanying injuries.

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Abandonments. The consultants determined that 48 separate lines or portions of lines of Seaboard and Coast Line, aggregating more than 1,000 miles, could be abandoned by the merged company following commencement of operations under single management. Consolidation of the present lines of the applicants would involve inter-related programs including the proposed abandonments, which together would achieve improvements in the main lines to be used as primary operating routes. Selected portions of the existing lines would be combined to form the most practicable routes providing the greatest operating efficiency and economy of maintenance; reduce transit time between the major terminals; permit release of a number of locomotive units; produce greater availability of car equipment; and improve safety of operations by elimination of numerous highway and street crossings at grade. Because the aforesaid modifications would entail use of the more favorable of the presently existing duplicative lines between points served by the applicants, it would be feasible to expect abandonment of their less desirable parallel line or lines, in whole or in part.

Inextricably included as part of the bases for estimates of the effect of the proposed merger and modifications, are values associated directly with the abandonments recommended by the consultants. In fact, the effect of the abandonments are directly or indirectly included as part of almost every major aspect of the proposed savings, and few of the proposals could be fully operative unless the savings pertaining to the abandonment proposals are given consideration. However, even if no abandonments were contemplated or undertaken, the savings

related to elimination of duplicative freight and passenger train service; consolidation of offices, departments, operating divisions, off-line offices, less-than-carload handling facilities, and heavy repair facilities, and related reduction in material and supply inventories, together estimated in excess of $16,000,000, would be almost entirely savable; and considerable portions of the estimated savings and increased revenues related to other phases of consolidation and rerouting of traffic also would be realized.

The application filed does not request authority to abandon lines or portions of lines which no longer would be required by the merged company after consummation of the proposed merger and consolidation of the lines and routes of the applicants. The executives of Seaboard and Coast Line assert that after operations are commenced by the merged company, further consideration would be accorded to the practicability of deferring decisions as to whether to press for those abandonments, if any, in regard to which substantial public opposition might be engendered. In such circumstances, new surveys of conditions after the merger would be determinative of which of the lines in question could be retained without doing damage to the anticipated benefits of the merger, and applications to abandon certain lines would not be presented to the Commission. Of course, the maximum benefits foreseeable require the actual

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abandonment and removal of the lines and segments recommended by the consultants. The savings anticipated by the abandonments to be proposed would be dependent upon the merger first being authorized and consummated; and simultaneously, achievement of the benefits to the participants in the merger depend upon at least a majority of the abandonments being applied for and permitted. In light of these reasons, the savings and other advantages which the

abandonments would make possible, properly should be credited to the general merger proposition.

Many of the interveners which object to the proposed merger on general grounds or in some limited aspect, separately contend that the failure to include within the corners of the merger application, appropriate requests for permission to abandon lines which the merged company would not require, constitutes a fatal defect in the principal application. The interveners also allege that the applicants' refusal to commit the merged company to undertake the consultants' recommendations in their entirety, renders it impossible to evaluate the estimated benefits of the proposed merger other than on unsupported speculative basis. Thus, they conclude that the applicants have failed to sustain the burden of proof in the merger proceedings. There is evidence of record upon which to premise the belief that most of the recorded abandonments would be applied for within a short time after the merger is authorized. Also, it is likely that because improved substitute railroad service by the merged company would be available, little or no opposition would be recorded in many instances, and the issue of public convenience and necessity would readily be proved. The record also indicates that some of the abandonments, if applied for, would be subject to vigorous opposition. In either event, the issuance of a certificate permitting abandonment would be tried on the individual merits of each separate line and segment proposed to be abandoned, and exercise of the Commission's discretion to grant or deny the relief sought would be upon the considerations of public need. The fact that requests for permission to abandon lines of the applicants were not made part of the merger application is inconsequential, particularly as the full benefits of the proposed merger are not presumed to be attainable until 5 years after consummation thereof. Also, the arguments are not tenable for the reason that certificates to abandon confer permissive rights

only, and are subject to the applicants' decision to exercise or to forego the privilege accorded by the Commission.

Transfer of lines. Closely allied to the aforesaid problems relating to abandonment of lines of the applicants, is the position of several railroad interveners which suggests that approval of the proposed merger, among other things, should be made subject to the imposition of conditions which would (1) require the merged company to abandon the portions of lines recommended by the consultants, as well as other portions not contemplated by the applicants; and (2)require the

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sale or transfer to the intervener making such proposal, the possession and use of one or more described segments of the abandoned lines. The Commission may not act upon such requests without expressing a prejudgment of the abandonment applications which have not been filed, and in fact, some of which may not be filed before the Commission. However, in proceedings involving requests to abandon lines of railroad, indentifiable affected interests and the public generally receive actual or constructive notice as provided by statute, and persons or corporations which believe they would be affected by a particular proposal are permitted to voice opposition and appear as a party in the proceeding. In that manner, interested persons are accorded the opportunity to present evidence and participate in the making of a complete record upon which the Commission makes its determination of whether the present and future public convenience and necessity requires the requested certification. Within such procedures any responsible person, firm, or corporation may receive consideration of its requests to assume ownership and operation of the line in question, or any part thereof, for purposes of continuing service in interstate commerce after the abandonment by the applicant takes effect. Upon proof that the proposals would be within the overall public

interest, the permission to abandon may be made subject to a condition that the applicant sell the abandoned line to the interested person at a fair price not to exceed the net salvage value thereof. See *Kansas City K. V. R. Inc., Abandonment,* 271 I. C. C. 705 (711). The requests to condition the merger herein upon the applicants' selling or transferring specific lines that would be subject to abandonment proceedings should not be considered at this time in this proceeding. The interveners properly should address such requests as part of the separate abandonment proceedings pertaining to applications that would be filed after consummation of the merger herein.

Other reasons warrant denial of the requests to require the merged company to transfer to interveners other lines not included among those recommended for future abandonments. The railroad interveners would use the Commission's power to impose conditions in section 5(2) proceedings to frustrate the overall objective of the merger herein, and to require dismemberment of the merged company's lines. The type of condition sought probably would be appropriate as part of a proposed plan in the reorganization of bankrupt railroads which would be unable to continue operations unless their plant and facilities are streamlined. In such a situation, decisions to order transfer of the debtor's properties are subject to very strict legal processes under the direct supervision of the Federal courts. Another instance where conditions such as those proposed by the interveners might be warranted, arise where the carrier services previously rendered by a defunct railroad would be unavailable to the public unless other railroads in the territory voluntarily acquire selected portions of the properties and assume responsibility for continuation of the operations involved.

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The circumstances found in the examples cited do not prevail in the proceeding herein. The evidence of the beneficial

effect of the proposals upon the acquiring railroad and the offsetting injuries to the merged company is not convincing, the areas of conflicting contentions are left without resolution. Imposition of the conditions would convert the position of the merged company from that of the dominant owner carrier to that of the subservient user carrier of the properties of the companies constituting the merged company. Such a switch in position is not shown to be in the public interest. Further, adoption of the suggestions would prevent the merged company from putting into effect the modifications in routes, operations, and consolidations necessary to attain the savings in operating costs conceived as part of the merger. If the Commission could find that the granting of conditions permitting extensions of the interveners' lines without an adequate showing that such are required by the public convenience and necessity is justified, and that the merged company is not entitled to a reasonable opportunity to provide the required transportation service, the only forthright action would be to deny the merger transactions in their entirety. Similar requests were considered by the Commission and found unwarranted in *Erie R. Co. Merger, supra.*, p. 231

Divestiture. Several interveners object especially to the proposed transfer to the merged company of the capital stock of L-and-N which Coast Line presently owns. They believe that operation within the Southeastern territory of a combination of railroads consisting of Seaboard, Coast Line and L-and-N, under the same financial control, would create a gigantic railroad system of such proportions that it would overshadow all other railroads operating solely or partially within the area, or, participating in traffic which originates or terminates within the areas served by the merged company and L-and-N. Because such new family relationships would exist, the interveners fear that the present neutrality of Seaboard in through movements with carriers which compete with L-and-N would cease, and the prevailing tendency of Coast

Line to favor operating routes which involve L-and-N would control the present traffic of Seaboard. Thus, the interveners conclude that the merged company would be able to divert from connecting railroads, traffic which would not be susceptible to changes in routing except because of the family relationship with L-and-N. In order to prevent such so-called "devastating" features, Southern and Illinois Central suggest the imposition of a condition precedent to the exercise of any authorization in the merger proceeding, which would require Coast Line or the merged company to dispose of the holdings of L-and-N stock by sale to Illinois Central. The Chicago & Eastern Illinois Railroad Company and Monon Railroad, each of which serves various points in common with, and interchanges freight with L-and-N and Illinois Central, object to the establishment of the family relationship with Illinois Central. These interveners contend that the proposed change in control of L-and-N

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would be inimical to their best interests for the same reasons asserted by Illinois Central and Southern in reference to the situation entailing the merged company and L-and-N.

The premises upon which the divesture arguments are founded assume a situation contrary to the conditions which would arise because of the merger proposals herein. The applicants do not contemplate that L-and-N would be involved in the proposed merger, and there would be no change in the operations of L-and-N after the merged company commences operations. The applicants deny that Coast Line controls the operating or traffic policies of L-and-N, and no evidence to the contrary is included in the record. Nor is there a convincing showing that the friendly or cooperative routing practices between Coast Line and L-and-N is unlawful or discriminatory, or, any greater than normally would be observed by separately owned and operated railroads which connect with each other

at numerous points. There appears to be nothing about the proposal that Illinois Central acquire control of L-and-N which would alter the contemplated operating and traffic relationship between the merged company and L-and-N, unless the intention of Illinois Central is to exercise more direct control than Coast Line heretofore has done. Under the circumstances, the conditions regarding open routes and gateways, and the additonal restrictions designed to protect other railroads operating within, and to and from the areas served by the merged company, would operate to safeguard Illinois Central. In the absence of a voluntary surrender by Coast Line of its ownership of stock of L-and-N, or, the possession by Illinois Central of contractual rights to purchase sufficient capital stock of L-and-N to involve possible acquisition of the power to control, there is no compelling reason to require Coast Line to divest itself of the stock in question. Within the framework of applicable Commission requirements in respect of through routes and joint rates, and the further protection embraced in the conditions which are recommended herein for imposition upon approval of the proposed merger, the divestiture condition would serve no purpose in the public interest.

Employees. On behalf of employees of the applicants and other railroads whose operations might deteriorate by reason of their traffic and revenue being diverted by the merged company, labor organizations request imposition of conditions adequate to protect employees adversely affected in regard to their employment and related rights. Cited as factors deserving of controlling weight in the Commission's consideration herein are the progressively worsening position of employees of railroads in recent years due to drastic reductions in forces; numerous other mergers and consolidations of major railroads already filed or in prospect of early filing and submission for the Commission's decision; that in terms of reduced operating costs, by far the major portion of the benefits to be derived by

the merger and other similiar transactions arises from reduced labor forces and savings in wages and salaries;

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and that limited labor protective conditions in lieu of full employment security are inadequate to compensate the affected employees, their families, and the business and social interests, and general economic welfare of communities in which the employees reside. In view of the foregoing, Labor argues that the proposed merger should be denied as failing to conform with the provisions of section 5(2)(c). In support, is cited *Fort Worth & D. C. Ry. Co. Lease*, 247 I.C.C. 119 (127).

The tenor of Labors' position is that the adverse effect upon railway employees herein would be of such magnitude, and the resulting injuries and disadvantages to the persons and areas directly and indirectly affected would be so severe, that they would outweigh any benefits and advantages expected to inure to the public as a consequence of the proposed merger. Apparently, the organizations do not consider that the applicants and other railroads contemplating merger-type transaction are seeking to institute methods of improving the position and general stability of railroads as important business enterprises and employers. Labor decries the fact that railroad employment, including the forces of Seaboard and Coast Line, has consistently diminished in recent years due to the declining economic position of the carriers, but, expresses no concern for many thousands of railroad employees who were separated from service without the minimal statutory protective conditions, or, for other employees who later may similarly be deprived of employment unless there is developed some practical manner of enabling the railroads to improve their business and financial position. There is no evidence of record from which to conclude that denial of the transactions, or expansion of the protective conditions

heretofore prescribed by the Commission in the approval of merger transactions, would safeguard the remaining community of railroad employees from job losses due to circumstances in regard to which protective conditions are not available.

Labor justifies its position primarily upon the argument that because Seaboard and Coast Line presently are not suffering operating deficits and each has enjoyed reasonable prosperity in recent years, there is no sufficient public need for the improvements which the applicants desire to achieve. The power of the Commission to authorize merger transactions upon finding that such would be consistent with the public interest, does not suggest that the benefits of consolidation are to be denied to railroads which are enjoying profitable operations. *Detroit, T. & I. R. Co. Control,* 275 I.C.C. 455 (489). The general purpose of the provisions of section 5(2), as revised in 1940, is to facilitate mergers and consolidations in the national transportation system. *County of Marin* v. *United States,* 356 U.S. 412 (416). Within that broad concept, in passing upon proposed transactions, the Commission is directed to give weight to the effect upon the public interest, among others, of specific considerations mentioned hereinabove. It is the totality of the effect upon the public interest of numerous considerations, including those mentioned in

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section 5(2)(c), which the Commission must evaluate in arriving at a decision. Taken alone, the Commission may not deny applications because employees would be adversely affected. *Louisville & N. R. Co. Merger,* 295 I.C.C. 457 (501). The Commission's manner of arriving at findings of matters consistent with the public interest under section 5(2), is further defined in subsection (b), which permits approval and authorization of proposed transactions upon the terms and conditions and with the modifications which the Commission finds

to be just and reasonable under the circumstances. Thus, the various effects of the transaction which the Commission must consider are subject to evaluation in light of the terms, conditions, and modifications which the Commission finds just and reasonable. See *Atlantic Coast Line R. Co.*, v. *United States*, 284 U. S. 288, upholding the power of the Commission to prescribe conditions in the public interest.

Labor does not abandon its request that the merger proposed herein be denied, but, urges that if, after consideration of the interest of employees, the Commission approves the transactions as consistent with the public interest, consummation thereof be made contingent upon conditions necessary to protect the interests of affected carrier employees. Such should conform with the intent of Congress expressed in subparagraph (f) of section 5(2), which in essence, requires a fair and equitable arrangement to protect the railroad employees affected during a minimum period of four years from the effective date of the Commission's order, from being in a worse position with respect to their employment. Because of reasons urged to merit denial of the application herein, Labor argues that the conditions prescribed should be broader and more extensive than those heretofore imposed by the Commission under the statute. The reasons supporting the arguments are repetitious of and elaborations upon those before the Commission in *Erie R. Co. Merger, supra.*, p. 233 *et seq.*, in which the *New Orleans conditions* were prescribed. Labor's position that the provisions therein were inadequate to preserve certain incidents to the employment summarized as fringe benefits, were sustained by a lower Court, and reversed on consideration by the Supreme Court, and held untenable, in *Maintenance of Way Employees* v. *United States*, 366 U.S. 169. Excerpts on brief herein, from the arguments of the Government and the Commission in the Supreme Court proceeding, which Labor considers inconsistent with the position of the applicants herein,

present no basis for findings in regard to labor protection other than as in the *Erie case*.

Clarification is required of that portion of the *New Orleans conditions* which prescribes the mechanics of resolving disputes between the railroad and an employee as to whether the complained-of adverse effect did or did not fairly stem from the authorized transaction. Arbitration of disputed claims of the employees presently are covered by

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condition 8 of the *Oklahoma conditions*, and section 13 of the *Washington Job Agreement* provisions, both of which are embraced in the *New Orleans conditions*. Heretofore, in some instances the carriers have refused to accept arbitration procedures under section 8, and have required the employee to invoke the section 13 provision which involves a permanent committee. Decisions of the section 13 committee have required up to 30 months after the claim arose. To correct the situation, Labor requests that a new provision be adopted to require compulsory arbitration by both parties, and to provide that the burden of proof shall shift to the employer upon the employee's presentation of a *prima facie* case in support of the claim in question. Language in lieu of the criticized *Oklahoma* and *Washington Agreement* provisions is presented by Labor as condition 7, among those reproduced hereinabove under the heading "Effect upon Employees". It is reasonable to provide such additional protection to the employees so that an early determination of his status may be forthcoming. The benefits to the well-being of the affected employees would more than outweigh the disadvantages, if any, which the railroad might suffer by the imposition of the compulsory arbitration and the defining of the burden of proceeding with the evidence.

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Another point raised by Labor is the contention that the conditions prescribed should apply to employees of railroads other than the applicants who become adversely affected by consummation of the proposed merger. Concern is expressed particularly for those employees of East Coast who would be disemployed in the event the loss of traffic and revenues necessitates the discontinuance of trains and services, or the abandonment of lines, as a means of effecting operating economies. Section 5(2)(f) refers to "railroad employees affected" and "employees of the carrier or carriers by railroad affected" which Labor argues is sufficiently broad to embrace any railroad employee prejudiced by approval of the transaction in question. Cited in support is *Brotherhood of Railroad Trainmen* v. *Baltimore & Ohio Railroad Company*, 331 U. S. 519 (531). Counsel further contends that the reported decisions of the Commission (about 79) which deny requests for imposition of labor protective conditions to the employees of carriers other than those of the applicants or the carriers party to the proceeding, are premised upon findings that such employees factually were "unaffected" by the authorized transactions. *Baltimore & O. R. Co. Operation*, 261 I.C.C. 615 (621). On that premise, Labor argues that the circumstances that would arise in connection with merger proposed herein are distinguishable from the facts controlling the previous line of decisions.

The record does not sustain a conclusion that adversely affected employees of railroads not party-applicants herein, are employees affected by the merger proposal. The loss of positions and employment rights of persons on the rosters of other railroads would be a secondary consequence of the potential loss of traffic and revenues suffered because of the merged company's operations. The actual extent of the injury to the railroads cannot be determined for the reason that each railroad might find some effective method to cushion or avoid the effect upon its own business. Conceivably, even if the

merger does not take place, as great or greater adverse effect upon the other railroads could occur in the normal day-to-day changes in flow of traffic causing diversions of traffic to the applicants or to any other existing railroad. The number of employees of other railroads would not be within the control of the merged company at any time, and except as to the applicants alone, the transaction authorized herein would not be the proximate cause of changes in railroad employment.

The important fact to be considered is that the Commission in this proceeding is not authorizing the discontinuance of service, or abandonment of lines by East Coast or any other carrier. The authorization under consideration is a specific permanent operating arrangement between two existing railroads whose affected employees are to be protected by prescribed conditions. Thus, the statutory requirements would be satisfied. The reasons which prove the

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correctness of these conclusions are identical with those explained in *Baltimore & O. R. Co., supra,* pages 618 *et seq.* A further reason lies in the circumstance that no railroad which might have believed its interests as an independent company would be seriously affected by the proposed merger, filed a petition to be included in the transaction under section 5(2)(d). Had such been filed and approved upon equitable terms, the order in that respect would have included appropriate protective conditions for the benefit of affected employees.

The imposition of specific conditions for the protection of affected employees, whether or not represented by interveners herein, is not to be construed as precluding the applicants and Labor from arriving by negotiation at any other mutually satisfactory arrangements under the last proviso of section

5(2)(f). Among other forms of protection which Labor asserted would provide satisfactory insurance to the employees, is the so-called "job-freeze", whereby displacements of employees and reductions in jobs would take place only as normal attrition affects the number of present employees of the applicants. A controversy arose as to whether, under attrition conditions, an employee would be entitled to receive any benefits in the event he fails to accept employment with seniority rights, in a position at any location other than where he presently may be domiciled, the duties of which he is qualified and able to perform. Such conditions were prescribed by the Commission in *Chicago, B. & Q. R. Co. Abandonment*, 257 I.C.C. 700 (704-7). The applicants appeared to believe they might accede to job-freeze type of conditions, if appropriate forfeiture provisions are made applicable to employees not willing to change their place of employment. If at any time prior to the statutory consummation of the merger herein, an arrangement is amicably reached by the applicants and representatives of the employees; upon request, that agreement would be acceptable for inposition insofar as they extend to employees represented by the organizations which sign the agreement. Likewise, should there be an agreement upon the terms of a practical arrangement in lieu of the arbitration conditions recommended herein; upon request, any suitable provision in this regard should be considered for adoption by the Commission.

Competition. In one form or another, practically every intervener in opposition to the proposed merger argues that the proposed elimination of competition between Seaboard and Coast Line would do material damage to the interests of users of railroad service, to other railroads, and to affected communities. The view is that continued industrial activities and development within the areas in question depend largely upon the availability of direct service by more than one railroad, and that any loss of such competition would be intoler-

able. The same interests concede

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that improvements of service and facilities such as the applicants contemplate are desirable and would be beneficial to some shippers, but, submit that the loss of competition between railroads would produce serious disadvantages, and that it is preferable to forego the improvements which the merger might produce. Nevertheless, interveners on behalf of railroads, affected communities, several major shipping interests, railway employees, and others, proposed the imposition of conditions to any authorization herein, which would provide limitations upon the merged company's activities to the extent that the benefits to the public would overcome whatever disadvantages might accompany consummation of the proposed merger.

The conflicting views of railroad users who support the merger and those who oppose the transactions are irreconcilable although the primary interests of both groups are selfish. For instance, the supporters of the merger foresee faster, more frequent, and more reliable train service; and the use of the merged company's potential savings and increased earnings to improve facilities and car supply. They believe that the resulting situation would permit returning to railroads considerable traffic which the shippers presently move via highway and water carriers. Also, they are hopeful that the increased traffic would aid in stemming the continuously rising freight rates and charges, and produce conditions which would warrant decreases in rates. On the other hand, shipper interests opposing the merger decry the loss of their present ability to negotiate separately with competing railroads for improved services and additional privileges, for the granting of which the shippers rely partially upon the pressure of existing competition. They also object to the newly acquired competitive advantages that other firms in the same industry would receive because the latters' plants are located at points which

would enjoy more of the direct benefits of the merger than the protesting shippers would realize. Neither of these objectives are among the purposes the Commission is directed to consider in determining the effect of section 5 authorizations upon the several modes of transportation.

Officials of the cities of Tampa and Savannah and their respective ports concur in the position of some of the important industries, terminal companies, and trade associations at those points which adopt the foregoing arguments in opposition to the proposals herein. They urge that the loss to shippers of the advantages of having more than one railroad available at a given point or plant would rapidly prejudice the communities and ports, and the trade areas served by each, and belittle their status in comparison to other points and ports in the Southeast. That point of view prevails despite assurances that the existing major routes and lines would be retained and could be selected by the shippers if desired; and that consolidation of trains

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services, and elimination of yard and terminal delays would result in improved transportation service to the affected areas. Likewise, they are not convinced that the industrial development services of the merged company would be more effective and beneficial than such services offered by each applicant in competition with one another.

Many of the advantages, asserted by the interests which contend that competition between railroads must be preserved at the sacrifice of the improvements and other benefits of the proposed merger, exist as dynamically in areas served only by a single railroad. Railroad managements normally are known to be responsive to proposals which reasonably may be expected to increase traffic and revenues, or aid in the industrial development of areas tributary to their lines. The

motivations which induce competing railroads to extend their services to the public are equally attractive to railroads not subject to direct competition by other railroads. The effects of regulations upon the affairs of railroads are such that competition between them does not result in the shipper being accorded savings in transportation costs not also available from competing railroads. The advantages, if any, which shippers derive from dealing separately with competing railroads results in route or service modifications, and such inevitably are equalized by the competitor. Where justified, the same type of changes evolve, even where the only competition is with other modes of transportation. The total effect of the requested railroad competition is to force increased facilities and services at little or no additional return to the railroads, and to increase the ability of competing modes of transportation to attract desirable traffic away from the railroads. Undoubtedly, this redounds to the immediate benefit of the industries involved, and in that respect fulfills an aspect of public interest, but, there is no evidence that the railroads are strengthened or otherwise advantaged. In essence, the situation which the shippers desire to perpetuate are contrary to the objective of the national transportation policy to foster sound economic conditions in transportation and among the several modes of carriers, particularly when compared to the benefits attributable to merger proposals.

Sections of the report herein, pertaining to the potential effect of the proposed merger upon other railroads within the area served by Seaboard and Coast Line, review other aspects of competition between railroads. Several railroad interveners presently compete with the direct routes of one of the applicants by virtue of participating with the other applicant in the movement of traffic over competitive through routes. Inasmuch as participation in through routes generally is voluntary by the railroads involved and may be discontinued by ap-

propriate unilateral action, the effect which the interveners consider as threats

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related to the merger transaction, could occur even if no application were filed. In addition to the desire of Seaboard to compete with Coast Line, and vice versa, there are reasons of self-benefit which causes each to continue to participate in through routes with the interveners. The record shows that numerous important shippers and receivers of freight have plant facilities which are served directly only by one or another of the interveners. Such patrons would continue to provide traffic for the benefit of the interveners regardless of the outcome of the merger proposed herein. Seaboard and Coast Line compete with each other and with other available trunk-line railroads for participation in the movement (beyond the lines of the interveners) of traffic originating at or destined to the plants local to the intervener railroads. The desire to continue friendly relations with the interveners would be as effective a deterrent upon the merged company's policies as it presently is upon the applicants' policies. Obviously, any undeserved disregard of the position of any intervener and the loss of its willing cooperation in matters of interest to the merged company, could backfire to the detriment of the latter. It is reasonable to conclude that removal of the competition between Seaboard and Coast Line, of itself, would not tend to disrupt appreciably the present patterns of traffic movement within the affected areas.

The Department of Justice, intervener in opposition to the proposed merger, participated in limited cross examination of a few witnesses of the applicants. On brief, Justice urges that the application be denied on grounds that the proposed merger would be contrary to the policy of the antitrust laws; and contrary to section 5(2) of the Interstate Commerce Act and the National Transportation Policy; for the reasons that

approval would (a) destroy the competition now existing between Seaboard and Coast Line, (b) jeopardize the existence of several small railroads, (c) impose unnecessary hardships on communities and shippers, and (d) impair adequate transportation. Justice also comments in respect of evidence adduced by other parties, and interprets each phase in the light least favorable to the applicants. These matters are covered hereinabove under appropriate topic headings and need no further discussion.

Section 5(11) of the act defines the Commission's authority under section 5 as exclusive and plenary, and among other things, provides that carriers participating in a transaction approved or authorized under section 5 shall be relieved from the operation of the antitrust laws and other restraints, etc., insofar as may be necessary to enable them to carry into effect the transaction so approved in accordance with the terms and conditions, if any, imposed by the Commission. In 1940, when section 5 was revised and section 5(2)(a) was enacted in its present form, the purpose of Congress was to facilitate merger and consolidation in the national transportation system. The Commission's

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determination of the merger proposal and the related transactions herein must be in light of that purpose. In that connection, the Supreme Court stated in *Texas* v. *United States*, 292 U. S. 522 (530), that the primary aim of the National Transportation Policy is to secure the avoidance of waste, and that such avoidance, as well as the maintenance of service, is a direct concern of the public.

Justice acknowledges that mergers of railroads validly approved by the Commission, under the act, insulates the carriers involved from the antitrust laws. However, it argues that the proposal herein would contravene the policies of the Sherman

Act and section 7 of the Clayton Act, because the effect of eliminating the competition between Seaboard and Coast Line would be to tend to create a monopoly. On such basis, Justice contends that the proposed merger would not be consistent with the public interest; that immunity from the provisions of the antitrust laws should not be conferred; and that the application herein should be denied. Cited as supporting its views are *United States* v. *Union Pacific R. R. Co.* 226 U. S. 61; *United States* v. *Du Pont & Co.*, 353 U.S. 586 (590); and *United States* v. *Maryland & Virginia Milk Producers Assoc.*, 167 F. Supp. 799 (807), affirmed 362 U. S. 458. Justice submits that in considering mergers, the Commission may not ignore the antitrust laws, but, has the duty to consider the effect of the transactions upon competitors and upon the general competitive situation. *McLean Trucking Co.* v. *United States*, 321 U. S. 67, (80, 86-7).

Justice concludes that the proposed merger would not conform with the requirements of section 5(2)(c) and the National Transportation Policy, in respect of the effect upon adequate transportation service to the public and promotion of efficient service and sound economic conditions in transportation; but contrarywise, would impair railroad service to a great segment of the Southeast with no offsetting advantages derived by the public. To arrive at such a finding requires that the material which the applicants produced on the record, and the direct evidence by the applicants and supporting shipper and public witnesses be completely disregarded, or be considered of no probative value. Such an evaluation is not justified. Further, Justice appears to give no credit to the Commission's statutory power and competence to subject the transactions under consideration to such terms and conditions and such modifications as it finds to be just and reasonable. However, other vehement interveners concede that if appropriate restrictive conditions are prescribed by the Commission,

the proposed merger could be fully consistent with the public interest.

The contention that cessation of active competition between Seaboard and Coast Line within the area they both serve would impair transportation service within an important segment of the Southeast and tend to create a monopoly, is not tenable. Throughout the entire area where the unified

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lines of the merged company would be situated, with the exception of the central and western portions of the Florida peninsula, the merged company would face the vigorous competition of Southern Railway and its connecting railroads. Between many of the major gateways and industrial centers intermediate on its lines, Southern and other major railroads, and numerous smaller railroads operate as established competing carriers of Seaboard and Coast Line.

The arguments presented by Justice ignore many facts of life in the railroad industry. Generally, the important revenue producing traffic is that which generates long hauls extending between two or more major rate territories, or otherwise are in the nature of transcontinental movements. On such traffic, the through movement is handled successively by many railroads, and the competition which exists is between available routes rather than between the railroads concerned. Often, railroads which do not serve the same areas beyond common gateway points are in position to, and actually do compete with each other. Such competition frequently prevents individual railroads from participating in routes which would provide them the longest practicable haul over their own lines, and the highest revenue payment. More often than not, the primary aspect of competition having bearing on the movement of important long-haul traffic involves the question of which railroad is able to convince the persons responsible for

the routing of the most desirable traffic, to designate the specific routes most favorable to the soliciting railroad. Many considerations including service, the condition and availability of cars and special equipment, and the shippers' policy to divide the traffic amongst all carriers equally, control the routing of most railroad traffic. Because conditions recommended herein would require the merged company to preserve all the existing open routes and gateways in which Seaboard and Coast Line individually participate, and to make other traffic concessions not normally required to be observed; the ability of the merged company to compete with other railroads might be very little better, if any, than the ability of the applicants presently to do so.

The foregoing considerations relating to railroad competition give no weight to the availability of other modes of transportation that will compete with the merged company. The record is replete with evidence that, especially in recent years for many different reasons, whenever railroads are unable to compete equally with trucks and barges as to rates and services, the available traffic is shipped via other modes, and the railroads lose all participation therein. Irrespective of the position to which Justice subscribes herein, the conclusion is adequately warranted that any injuries to the public that would follow the diminution of the direct competition between railroads as a result of consummation of the proposed merger, under the terms and conditions recommended herein, would be more than offset by the accompanying immediate and long-range benefits to the applicants and to the public generally.

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RECOMMENDATIONS

The appropriate findings required by the provisos of the paragraphs of section 5(2), insofar as they apply to merger

transactions, are justified by the record herein, and are supported by adequate evidence. Undoubtedly, the foreseeable benefits are desirable and important to the railroads involved. Likewise, they would provide advantages permitting continued adequate and improved railroad transportation to the shipping public. The required statutory finding that the proposed merger will be consistent with the public interest should be subject to terms and conditions, and modifications which the examiner recommends for adoption as just and reasonable under the circumstances. The conditions would be effective in providing a reasonable measure of protection from injuries to which certain interests would be exposed as a direct effect of the merger of Seaboard and Coast Line. The connecting and competing railroads would be accorded a vital opportunity to share in the benefits which the authorization herein would make available to the applicants and the public. Exercise of the conditional rights would sharpen the ability of the other railroads to compete with the merged company, and of course, would tend to dilute some of the direct savings and increased revenues anticipated by the applicants. However, the merged company would be able to establish the proposed new routes and combined through freight trains over the consolidated lines of Seaboard and Coast Line, subject to its ability to induce the movement of traffic thereover.

The "gateway" conditions which the applicants stipulated would be acceptable (numbered 1 through 5, and 9) would require the merged company to honor all the routing practices and traffic policies heretofore applied by Seaboard and Coast Line. They would effectively prevent the development of any new affinity with railroads affiliated with, but not subsidiary to the merged company, except to the extent that such changes would be accomplished by normal competitive activities subject to the Commission's supervisory powers, and the statutory rights of other railroads and persons to institute actions for appropriate relief.

Additional conditions restricting the traffic, service, and operating prospects of the merged company (numbered 6 and 7), although applicable to all affected railroads, would inure especially to the benefit of weak short-line carriers. The competing and connecting railroads through their own effective solicitation and sales efforts partly in direct competition with the merged company, would be afforded a reasonable opportunity to protect their present traffic from serious deterioration due to diversion caused by the imposing position of the merged company. Also, they would be in a better position to attract new business to replace some of the lost traffic and revenues. As a result, the future

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ability of such railroads to continue and expand their operations would be safeguarded, and the threatened indirect effect upon shippers, communities, and defense installations would be less likely to occur. Condition 8, would permit Southern Railway Company to elect whether to continue operations under trackage rights over the consolidated lines of the merged company. The applicants are agreeable to giving effect to such a provision, and imposition thereof is fitting in view of the potential change in circumstances resulting from the merger herein and the proposed abandonments of the applicants' lines incidental thereto.

In view of the foregoing considerations, the examiner recommends specific conditions, as follows:

1. Upon consummation of the merger, the Seaboard Coast Line railroad company shall maintain and keep open all routes and channels of trade via existing junctions and gateways, unless and until otherwise authorized by the Interstate Commerce Commission.

2. The present neutrality of handling traffic inbound and outbound by the applicants shall be continued so as to permit equal opportunity for service to and from all

lines reaching the rails of these carriers without discrimination as to routing or movement of traffic and without discrimination in the arrangement of schedules or otherwise.

3. The present traffic and operating relationships, including among other things, interchange arrangements and switching practices, between the applicants on the one hand, and all lines connecting with their tracks, on the other, shall be continued insofar as such matters are within the control of the Seaboard Coast Line Railroad Company.

4. Seaboard Coast Line Railroad Company shall accept, handle, and deliver all cars inbound and outbound, loaded or empty, without discrimination in promptness or frequency of service as between cars destined to or received from competing carriers, and irrespective of destination or route of movement.

5. Seaboard Coast Line Railroad Company shall not do anything to restrain or curtail the right of industries now located on lines of the applicants to route traffic over any or all existing routes and gateways.

6. Seaboard Coast Line Railroad Company shall preserve and maintain the same schedules on the present freight trains of Seaboard and Coast Line which the

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merged company would continue after consummation of the merger; unless such schedules, after revision, would provide later departure times and/or earlier arrival times at junctions and gateways in such a manner that the existing cutoff times for connecting trains of other railroads would not be changed, or, would not cause or permit such connections to be delayed or broken.

7. On a reciprocal basis with all connecting railroads requesting such arrangements and willing to afford equal privileges to the merged company, Seaboard Coast Line Railroad Company shall publish and file appropriate tariffs and routing schedules, effective on or after the

date of consummation of the merger authorized herein, providing the following:

(a) Opening of the junctions and gateways of Seaboard Coast Line Railroad Company as to all its traffic moving through each such gateway, at the lowest applicable rate available through any other junction or gateway of the said merged Company; and

(b) New routes with applicable competitive joint rates and just and reasonable divisions thereof, on the traffic handled by the said merged company in connection with other railroads via available junctions and gateways, moving to and from the stations of the merged company on the one hand, and, on the other, points and stations on or beyond the lines of the aforesaid connecting railroad or railroads.

8. At the request of Southern Railway Company, presented in writing not more than 6 months after the date of consummation of the merger authorized herein, or, not more than 6 months after the effective date of any certificate of the Commission permitting abandonment by Seaboard Coast Line Railroad Company of any line of railroad directly affecting the lines described in this condition 8, Seaboard Coast Line Railroad Company shall cancel the existing trackage agreements under which Southern Railway operates over lines of the Atlantic Coast Line Railroad Company, (1) between Hardeeville, S. C., and Jacksonville, Fla., and (2) between Selma, N. C., and Pinners Point, Va.; and shall refrain from opposing or in any manner protesting any request by Southern Railway for permission under section 1(18-20), to abandon operations pursuant to the aforesaid trackage agreements.

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9. Any party or person having an interest in the subject matter herein, at any future time, may make application for such modification of the conditions prescribed as

part of the authorization herein, or any of them, as may be required in the public interest; and jurisdiction will be retained by the Commission to reopen the proceeding herein on its own motion for the same purpose.

Under the circumstances detailed hereinabove, the examiner recommends employee protective conditions the same as those prescribed in *New Orleans Union Passenger Terminal Case,* 282 I.C.C. 271. With the modification of a single condition as explained hereinbelow, the aforesaid conditions would fully comply with the statutory standards requiring fair and equitable arrangements to protect the interests of railroad employees affected. Those portions of the *New Orleans conditions,* drawn from and identified as conditions 8 of the *Oklahoma conditions,* and section 13 of the *Washington Job Agreement* provisions, shall be deleted and considered of no force and effect herein. In lieu of the condition and section referred to, shall be substituted a new condition (in four paragraphs), providing the following:

In the event any dispute or controversy arises with respect to the protection afforded by these conditions or with respect to their interpretation, application, or enforcement, which cannot be settled by the carriers and the employee or his authorized representatives within 30 days after the dispute arises, it may be referred by either party to an arbitration committee for consideration and determination.

Upon notice in writing served by one party on the other of intent by that party to refer the dispute or controversy to an arbitration committee each party, within 10 days, shall select one member of the arbitration committee, and the two members thus chosen, within 10 days, shall select a third member who shall serve as chairman. Should the two committee members be unable to agree upon the appointment of the third member, then the parties to the dispute or controversy, within an additional 10 days, shall agree to an alternative method by which the third member shall be appointed.

In the processing of claims arising under this condition, the employee shall have the burden of establishing a *prima facie* case. The carrier then shall have the burden of proving that the employee was affected as the result of circumstances not connected with the transaction in relation to which the conditions herein are prescribed. The decision of the majority of the arbitration committee shall be final, binding, and conclusive.

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The salaries and expenses of the third member of the arbitration committee shall be borne equally by the parties to the arbitration proceeding, and all other expenses shall be paid by the party incurring them.

Consistent with the public interest, the conditions recommended for imposition upon the merger authorized herein would have the effect of restraining any possible misuse of the competitive power of Seaboard Coast Line Railroad Company, and would improve correspondingly the ability of other railroads to continue operations within the areas served by the merged company. Several interveners which suggested specific conditions to protect their individual interests, insinuated that those pleadings constituted petitions to be included in the merger transaction, upon findings that such would be consistent with the public interest under section 5(2)(d). The pleadings are not petitions, and contain no requests to be included in the merger transaction. To the extent that the conditions recommended for adoption herein do not embrace the relief sought by the interveners, the requests are recommended for denial on the merits. No other requests by the interveners remain to be considered. See *Chicago, M. St. P. & P.R. Co. Trustees Operation*, 247 I.C.C. 1 (7).

Additional conditions should be prescribed which would provide any affected railroad a reasonable extension of the period within which to file appropriate petitions to be included in the transaction. As shown, some of the modifications of the existing operations and service of Seaboard and Coast Line are

not scheduled to be completely fulfilled until 5 years after consummation of the merger. Because any delayed change of the situation, alone, or, in concert with other changes already achieved, may be the cause of new adverse effects upon certain railroads and endanger their ability to survive, such affected carriers should be permitted to petition the Commission under the provisions of section 5(2)(d), prior to consummation of the merger, or, up to 5 years after the date thereof. The examiner recommends that the Commission retain jurisdiction during the 5 years to consider any petition filed by other railroads as directly related to the proceedings in Finance Docket No. 21215. In connection with petitions so filed, the merged company should be compelled to seriously consider the proposals presented, and to negotiate in good faith in arriving at amicable solutions to the problems involved. The merged company also should be obliged to consent to and, if required, join in the filing of such petitions; and to cooperate in the presentation of adequate evidence upon which to make the required determination of consistency with the public interest.

Among the types of relief which the individual railroad petitioners might request in the future, subject to the Commission's approval and authorization, would be any

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practicable proposal to coordinate portions of the lines, freight and passenger terminals, or other properties of the petitioner with similar properties of the merged company situated in the immediate vicinity or adjacent to each other. With variations according to the facilities in question, the proposals might include incidental abandonments of lines of the petitioner and/or the merged company, and related construction of connecting tracks; the acquisition of trackage rights on a reciprocal basis or otherwise; and the consolidation and joint use of the coordinated facilities. Agreements pertaining to such proposals could provide for division of the cost of the projects and the

sharing, on just and fair bases, of the continuing savings that would evolve. Likewise, appropriate provision could be arrived at for the protection of the existing business of each participating railroad, and the continued exclusive service of industries reached by either of the carriers, but, not by the other. Typical of such transactions and the objectives served in the public interest, by coordination of facilities of separate railroads, is the authorization of the Commission in *Delaware, L. & W. R. Co. Trackage Rights,* 295 I.C.C. 743. In the same vein, as part of a plan of coordination or otherwise, the petitioning affected railroads could request the merged company to provide adequate joint use of yard facilities and related locomotive, train, and car services at common junction points, on a reasonable basis of payment.

Another area in which future petitions to be included in the transaction herein may be filed would permit any affected railroad, subject to approval and authorization by the Commission, to require the merged company to acquire by purchase the capital stock of the petitioning railroad in sufficient amounts to permit merger thereof into the Seaboard Coast Line Railroad Company, or, to purchase the properties of the aforesaid petitioner, and to consolidate such properties with those of Seaboard Coast Line, upon terms and conditions mutually agreed upon by the parties to the purchase agreements, or, prescribed by the Commission as just and reasonable and consistent with the public interest, pursuant to section 5(2). Similar conditions as to specified railroads were prescribed by the Commission in *St. Louis S. W. Ry. Control,* 180 I.C.C. 175 (191).

STATUTORY FINDINGS AND ORDER

Based upon his review of the entire record, and primary findings and pertinent discussion and conclusions thereon, the examiner finds that, subject to the conditions requiring (a)

maintenance of existing open routes and gateways and services, (b) joining in institution of new routes and services, (c) canceling of certain trackage rights at the option of the user company, (d) protection of adversely affected railway employees, and (e) retaining of jurisdiction herein to consider petitions to be included in the

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transactions herein, if any, subsequently filed by affected other railroads; (1) the merger of the properties and franchises of Atlantic Coast Line Railroad Company into the Seaboard Air Line Railroad Company, the name of which would be changed to Seaboard Coast Line Railroad Company; (2) acquisition by Seaboard Air Line Railroad Company of sole or joint control of carriers subsidiary to or affiliated with Atlantic Coast Line Railroad Company through ownership of stock or lease, including trackage rights over or joint use of railroad lines of certain carriers; and (3) transfer of the motor carrier operating rights of Atlantic Coast Line Railroad Company to the Seaboard Air Line Railroad Company to enable the latter to use service by motor vehicle to public advantage and not unduly restrain competition; all subject to the terms and conditions and such modifications above set forth and found to be just and reasonable; are within the scope of subparagraph (a) of section 5(2) of the Interstate Commerce Act, and are consistent with the public interest.

The examiner further finds that the issuance by Seaboard Air Line Railroad Company of 3,398,345 shares of $20 per share par value common stock, to be issued in conversion of the outstanding shares of preferred stock and the common stock of the Atlantic Coast Line Railroad Company, pursuant to the plan of merger authorized herein; and the assumption by the said Seaboard Air Line Railroad Company of the obligations and liabilities of Atlantic Coast Line Railroad Company existing on the date of the merger, and in respect of certain

securities and obligations of companies related to Atlantic Coast Line Railroad Company which are contingently guaranteed by the said carrier either solely or jointly with other guarantors; are for a lawful object within the corporate purposes of Seaboard Air Line Railroad Company, and are compatible with the public interest, and necessary or appropriate for or consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

Premises considered, it is the ORDER of the hearing examiner that:

The motions of several interveners that the application herein be dismissed for failure of the applicants to request certificates permitting abandonment of lines of railroad of Seaboard Air Line Railroad Company and Atlantic Coast Line Railroad Company, as contemplated in the plan of merger, be, and they are, hereby denied.

The supplemental application filed herein by Mercantile-Safe Deposit and Trust Company, for authority under section 5(2) to acquire indirect control of Seaboard Coast Line Railroad Company and its common carrier subsidiaries and

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affiliates, by virtue of ownership of a majority of the capital stock of Atlantic Coast Line Company, a carrier subject to the Interstate Commerce Act, which herein is authorized to acquire control of the said Seaboard Coast Line Railroad Company, be, and it is hereby, dismissed.

Merger of the properties and franchises; acquisition of sole or joint control of carriers subsidiary to or affiliated with, and trackage rights over and joint use of certain lines of other railroads; and transfer of the outstanding motor carrier operating rights of Atlantic Coast Line Railroad Company into the Sea-

board Air Line Railroad Company, the name of which will be changed to Seaboard Coast Line Railroad Company, through acquisition of capital stock pursuant to the approved plan of merger; and, by virtue of such merger, acquisition of indirect control of Seaboard Air Line Railroad Company, the surviving corporation, by Atlantic Coast Line Company, a holding company, be and they are hereby, approved and authorized subject to specified terms and conditions and modifications;

The issuance by Seaboard Air Line Railroad Company of 3,839,345 shares of $20 per share par value common stock, pursuant to the aforesaid plan of merger, and assumption by the said Seaboard Air Line Railroad Company of the obligations and liabilities of Atlantic Coast Line Railroad Company existing on the date of merger, and in respect of securities and obligations of companies subsidiary to or affiliated with the latter, which are contingently guaranteed either solely by Atlantic Coast Line Railroad Company, or jointly with other guarantors, upon the terms and for the purposes described, be, and they are hereby, authorized;

Except as herein authorized, the aforesaid stock shall not be sold, pledged, repledged, or otherwise disposed of by Seaboard Air Line Railroad Company, unless or until so ordered or approved by the Commission;

Seaboard Air Line Railroad Company shall report concerning the matters involved herein in conformity with the orders of the Commission, division 4, dated August 9, 1946, as amended, respecting applications filed under section 20a of the Interstate Commerce Act (49 CFR 56.4 and 56.6);

The authority herein granted shall not be exercised prior to the date of service of a notice or order stating that this recommended order has become the order of the Commission;

Nothing herein shall be construed to imply any guaranty or obligation as to said securities or dividends thereon, on the

part of the United States; and

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If the authority herein granted is not exercised within one year from the effective date hereof, or such further time as may be fixed by the Commission, it shall be of no further force or effect.

By the Commission, Hyman J. Blond, Hearing Examiner.

Dated at Washington, D. C. this 16th day of August, A. D. 1962.

HAROLD D. MCCOY,

Secretary

(SEAL)

F. D. No. 21215

Appendix "A"

APPLICANTS' CONTROL OR OWNERSHIP OF OTHER CARRIERS SUBJECT TO THE ACT

Seaboard Air Line Railroad Company

Names of Carrier	*Extent of control (Percents)*
Albany Passenger Terminal Co.	4.58
Athens Terminal Company (a)	50.
Baltimore Steam Packet Company	50.
Birmingham Terminal Company	16.67
Chatham Terminal Company	50.
Columbia, Newberry & Laurens R.R. Co.	16.67
Durham Union Station Company	25.
Gainesville Midland R. R. Co.	100.
Georgia, Florida & Alabama R. R. Co.	100.
Jacksonville Terminal Company	25.
Norfolk and Portsmouth Belt Line R. R.	12.5
North Charleston Terminal Company	33.33
The Pullman Company	1.74
Railway Express Agency, Inc. (b)	1.6
Richmond Terminal Railway Company	33.33
Savannah Union Station Company	33.33

Tampa & Gulf Coast R. R. Co.	100.
Tampa Union Station Company	66.67
Tavares and Gulf Railroad Co.	100.

(a) In addition, the Gainesville Midland Railroad Company, a wholly owned subsidiary of Seaboard, owns 50 percent.

(b) In addition, the Georgia, Florida & Alabama Railroad Company owns 1 share.

[1]

F. D. No. 21215

Appendix A.

APPLICANTS CONTROL OR OWNERSHIP OF OTHER CARRIERS SUBJECT TO THE ACT

Atlantic Coast Line Railroad Company

Name of Carrier	*Extent of control (Percents)*
Albany Passenger Terminal Co. (a)	41.
Atlanta & West Point R. R. Co. (b)	6.4
Atlantic & East Coast Terminal Co.	50.
Augusta & Summerville R. R. Co.	37.5
Augusta Belt Railway Co.	50.
Augusta Union Station Company	50.
Central Railroad Company of South Carolina	36.5
Charleston Union Station Company	50.
Chesapeake Steamship Company (Inactive)	33.33
Columbia, Newberry & Laurens R. R. Co.	80.
Columbia Union Station Company	50.
Duval Connecting Railroad Company	50.
East Carolina Railway	100.
Ft. Myers Southern Railroad Co.	100.
Goldsboro Union Station Company	33.33
Jacksonville Terminal Company	25.

Louisville and Nashville Railroad Co.	33.7
Milledgeville Railway Co.	50.
Monroe Railroad Company	50.
Norfolk and Portsmouth Belt Line R. R. Co.	12.5
North Charleston Terminal Company	33.33
Peninsular & Occidental Steamship Company	50.
The Pullman Company	2.5
Railway Express Agency, Inc.	2.
Richmond Terminal Railway Company	33.33
Rockingham Railroad Co.	100.
Savannah River Terminal Co.	66.67
Savannah Union Station Company	33.33
South Carolina Pacific Ry. Co.	36.8
Spartanburg Terminal Company	75.
Tampa Southern Railroad Co.	100.
Tampa Union Station Company	33.33
Virginia & Carolina Southern R. R. Co.	100.
Winston-Salem S. B. Ry. Co.	50.

(a) In addition the A. & W. P. R. R. Co. owns 33.33 percent of the outstanding stock.

(b) Option to Georgia Railroad & Banking Company to purchase 1,107 of 1,588 shares of common stock at expiration of lease of Georgia Railroad. [2]

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SEABOARD AIR LINE RAILROAD COMPANY
ATLANTIC COAST LINE RAILROAD COMPANY
SEABOARD COAST LINE RAILROAD COMPANY

Finance Docket No. 21215

ACTUAL, COMBINED AND PRO FORMA GENERAL BALANCE SHEETS AS OF AUGUST 31, 1960,
AFTER GIVING EFFECT TO MERGER OF ATLANTIC COAST LINE RAILROAD COMPANY

ASSETS

		Seaboard Air Line (Actual)	Atlantic Coast Line (Actual)	Combined	Adjustment for Acquisition of Atlantic Coast Line	Adjusted and Combined (Pro Forma)
	CURRENT ASSETS					
(701)	Cash	$ 3,280,469	$ 8,531,576	$ 11,812,045	$ —	$ 11,812,045
(702)	Temporary cash investments	$ 13,047,796	5,501,591	18,549,387	—	18,549,387
(703)	Special deposits	1,121,008	2,283,778	3,404,786	—	3,404,786
(706)	Net balance receivable from agents and conductors	1,660,682	2,262,487	3,923,169	—	3,923,169
(707)	Miscellaneous accounts receivable	2,931,739	13,479,017	16,410,756	—	16,410,756
(708)	Interest and dividends receivable	110,369	1,087,467	1,197,836	—	1,197,836
(709)	Accrued Accounts receivable	4,517,507	1,402,812	5,920,319	—	5,920,319
(710)	Working fund advances	74,430	252,237	326,667	—	326,667
(711)	Prepayments	359,372	96,917	456,289	—	456,289
(712)	Material and supplies	13,083,158	11,761,466	24,844,624	—	24,844,624
(713)	Other current assets	380,889	45,553	426,442	—	426,442
	Total current assets	40,567,419	46,704,901	87,272,320	—	87,272,320
	SPECIAL FUNDS					
(715)	Sinking funds	753	3,783	4,536	—	4,536
(716)	Capital and other reserve funds	3,837,693	7,758,758	11,596,721	—	11,596,721
(717)	Insurance and other funds	60,000	346,083	406,083	—	406,083
	Total special funds	3,898,716	8,108,624	12,007,340	—	12,007,340
	INVESTMENTS					
(721)	Investments in affiliated companies	9,348,045	76,938,385	86,286,430	—	86,286,430
(722)	Other investments	1,242,708	287,706	1,530,414	—	1,530,414
	Total investments	10,590,753	77,226,091	87,816,844	—	87,816,844
	PROPERTIES					
(731)	Road and equipment property	537,460,863	562,763,010	1,100,223,873	—	1,100,223,873
	Road	273,694,233	309,949,145	583,643,378	—	583,643,378
	Equipment	255,605,647	251,126,255	506,731,902	—	506,731,902
	General expenditures	8,160,983	1,687,610	9,848,593	—	9,848,593
(732)	Improvements on leased property	934,401	412,250	1,346,651	—	1,346,651
	Road	938,913	412,250	1,351,163	—	1,351,163
	General expenditures	(4,512)	—	(4,512)	—	(4,512)
(733)	Acquisition adjustment	(82,622,477)	(4,738,407)	(87,360,884)	—	(87,360,884)
(734)	Donations and grants—Cr.	(3,218,184)	(3,391,060)	(6,609,244)	—	(6,609,244)
	Total transportation property	452,554,603	555,045,793	1,007,600,396	—	1,007,600,396
(735)	Accrued depreciation—Road and equipment	(122,729,045)	(99,435,214)	(222,164,259)	—	(222,164,259)
(736)	Amortization of defense projects—Road and equipment	(19,995,478)	(37,246,652)	(57,242,130)	—	(57,242,130)
	Total transportation property less recorded depreciation and amortization	309,830,080	418,363,927	728,194,007	—	728,194,007
(737)	Miscellaneous physical property	11,641,485	7,029,722	18,671,207	—	18,671,207
	Total properties less recorded depreciation and amortization	321,471,565	425,393,649	746,865,214	—	746,865,214
	OTHER ASSETS AND DEFERRED CHARGES					
(741)	Other assets	310,049	1,739,311	2,049,360	—	2,049,360
(742)	Unamortized discount on long-term debt	1,235,383	611,154	1,846,537	—	1,846,537
(743)	Other deferred charges	729,138	1,283,917	2,013,055	—	2,013,055
	Total other assets and deferred charges	2,274,570	3,634,382	5,908,952	—	5,908,952
	TOTAL ASSETS	$378,803,023	$561,067,647	$ 939,870,670	$ —	$ 939,870,670

( ) Denotes Credit.

SEABOARD AIR LINE RAILROAD COMPANY
ATLANTIC COAST LINE RAILROAD COMPANY
SEABOARD COAST LINE RAILROAD COMPANY

Finance Docket No. 21215

Appendix "B" — p. 2

ACTUAL, COMBINED AND PRO FORMA GENERAL BALANCE SHEETS AS OF AUGUST 31, 1960,
AFTER GIVING EFFECT TO MERGER OF ATLANTIC COAST LINE RAILROAD COMPANY

LIABILITIES AND SHAREHOLDERS' EQUITY

		Seaboard Air Line (Actual)	Atlantic Coast Line (Actual)	Combined	Adjustment for Acquisition of Atlantic Coast Line	Adjusted and Combined (Pro Forma)
	CURRENT LIABILITIES					
(752)	Traffic and car-services balances—Cr.	$ 883,373	$ 117,632Dr	$ 765,741	$ —	$ 765,741
(753)	Audited accounts and wages payable	4,737,751	5,368,952	10,106,703	—	10,106,703
(754)	Miscellaneous accounts payable	1,707,199	2,455,409	4,162,608	—	4,162,608
(755)	Interest matured unpaid	412,996	815,552	1,228,548	—	1,228,548
(756)	Dividends matured unpaid	42,162	10,056	52,218	—	52,218
(757)	Unmatured interest accrued	937,739	982,452	1,920,191	—	1,920,191
(758)	Unmatured dividends declared	—	1,317,778	1,317,778	—	1,317,778
(759)	Accrued accounts payable	4,992,179	1,738,873	6,731,052	—	6,731,052
(760)	Federal income taxes accrued	3,689,153	2,012,031	5,701,184	—	5,701,184
(761)	Other taxes accrued	2,958,405	3,714,871	6,673,276	—	6,673,276
(763)	Other current liabilities	1,605,903	1,223,929	2,829,832	—	2,829,832
	Total current liabilities (exclusive of long-term debt due within one year)	21,966,860	19,522,271	41,489,131	—	41,489,131
	LONG-TERM DEBT DUE WITHIN ONE YEAR					
(764)	Equipment obligations and other debt	10,105,425	9,564,865	19,670,290	—	19,670,290
	LONG-TERM DEBT DUE AFTER ONE YEAR					
(765)	Funded debt unmatured	41,022,709	118,807,891	159,830,600	—	159,830,600
(766)	Equipment obligations	69,587,000	62,722,018	132,309,018	—	132,309,018
	Total long-term debt due after one year	110,609,709	181,529,909	292,139,618	—	292,139,618
	RESERVES					
(771)	Pension and welfare reserves	13,333	163,945	177,278	—	177,278
(773)	Equalization reserves	98,283	618,432Dr	520,149Dr	—	520,149Dr
(774)	Casualty and other reserves	5,222,853	1,335,714	6,558,567	—	6,558,567
	Total reserves	5,334,469	881,227	6,215,696	—	6,215,696
	OTHER LIABILITIES AND DEFERRED CREDITS					
(782)	Other liabilities	81,870	355,789	437,659	—	437,659
(784)	Other deferred credits	1,200,393	2,830,946	4,031,339	—	4,031,339
(785)	Accrued depreciation—Leased property	191,671	9,597	201,268	—	201,268
	Total other liabilities and deferred credits	1,473,934	3,196,332	4,670,266	—	4,670,266
	SHAREHOLDERS' EQUITY					
	Capital stock:					
(791)	Capital stock issued or nominally issued and reserved for stock options—Total	97,979,000	97,390,786	195,369,786	(20,603,886)	174,765,900
	Reserved for Restricted Stock Option Plans—Total	1,235,160	2,039,625	3,274,785	(200,725)	3,074,060
	Outstanding—Total	96,743,840	95,351,161	192,095,001	(20,403,161)	171,691,840
	Seaboard Air Line Railroad Company:					
	Common—$20 par value (4,898,950 shares issued, less 61,758 shares reacquired and held in treasury)	96,743,840	—	96,743,840	—	96,743,840
	Proposed additional shares to effectuate merger:					
	Common—$20 par value (3,839,345 shares issued or nominally issued, less 91,945 shares nominally issued and reserved for stock options)	—	—	—	74,948,000	74,948,000
	Atlantic Coast Line Railroad Company:					
	Common—without par value (2,700,481 shares issued or nominally issued, less 64,750 shares nominally issued and reserved for stock options)	—	95,195,761	95,195,761	(95,195,761)	—
	Preferred—$100 par value (1,554 shares issued)	—	155,400	155,400	(155,400)	—
	Total capital stock outstanding	96,743,840	95,351,161	192,095,001	(20,403,161)	171,691,840
	Capital surplus:					

SEABOARD AIR LINE RAILROAD COMPANY
INCOME STATEMENT

		1955	1956	1957	1958	1959	Eight Months Ended August 31, 1960
	I. OPERATING INCOME						
	RAILWAY OPERATING INCOME						
501	Railway operating revenues	$156,609,690	$164,145,652	$165,428,411	$154,790,267	$161,440,939	$107,862,124
531	Railway operating expenses	112,781,410	121,761,760	124,381,658	123,102,809	122,226,391	83,396,721
	Net revenue from railway operations	43,828,280	42,383,892	41,046,753	31,687,458	39,214,548	24,465,403
532	Railway tax accruals	16,110,316	16,797,831	17,123,257	11,490,734	17,600,553	10,735,130
	Railway operating income	27,717,964	25,586,061	23,923,496	20,196,724	21,613,995	13,730,273
	RENT INCOME						
504	Rent from locomotives	44,762	35,299	32,606	44,936	59,620	46,736
505	Rent from passenger-train cars	1,537,368	1,818,645	1,791,587	1,665,106	1,686,920	1,185,016
506	Rent from floating equipment	3,120	—	—	—	—	—
507	Rent from work equipment	20,591	20,621	43,217	33,077	25,374	40,913
508	Joint facility rent income	59,161	66,040	72,045	88,001	77,725	46,800
	Total rent income	1,665,002	1,940,605	1,939,455	1,831,120	1,849,639	1,319,465
	RENTS PAYABLE						
536	Hire of freight cars—Debit balance	2,815,351	2,434,680	2,313,436	1,659,444	2,380,415	2,404,806
537	Rent for locomotives	182	332	236	421	178	13,505
538	Rent for passenger-train cars	1,499,822	1,492,276	1,553,189	1,450,537	1,508,841	995,160
540	Rent for work equipment	1,142	3,243	1,383	2,646	3,579	1,729
541	Joint facility rents	380,334	404,288	421,585	448,600	492,699	321,600
	Total rents payable	4,696,831	4,334,819	4,289,829	3,561,648	4,385,712	3,736,800
	Net rents—Debit	3,031,829	2,394,214	2,350,374	1,730,528	2,536,073	2,417,335
	Net railway operating income	24,686,135	23,191,847	21,573,122	18,466,196	19,077,922	11,312,938
	II. OTHER INCOME						
510	Miscellaneous rent income	233,077	238,973	229,489	280,746	296,482	185,000
511	Income from nonoperating property	107,623	103,164	127,217	232,610	266,664	139,000
513	Dividend income	94,787	132,914	147,546	185,032	167,571	48,495
514	Interest income	558,302	730,260	794,991	694,105	832,572	629,453
516	Income from sinking and other reserve funds	7,328	9,191	29,568	8,163	44,451	49,985
519	Miscellaneous income	1,439	4,074	84,790	903,780	812,516	355,619
	Total other income	1,002,556	1,218,576	1,413,601	2,304,436	2,420,256	1,407,552
	Total income	25,688,691	24,410,423	22,986,723	20,770,632	21,498,178	12,720,490
	III. MISCELLANEOUS DEDUCTIONS FROM INCOME						
543	Miscellaneous rents	3,821	29,058	22,257	4,284	4,215	3,448
551	Miscellaneous income charges	22,106	20,641	113,233	1,156,593	126,306	131,489
	Total miscellaneous deductions	25,927	49,699	135,490	1,160,877	130,521	134,937
	Income available for fixes charges	25,662,764	24,360,724	22,851,233	19,609,755	21,367,657	12,585,553
	IV. FIXED CHARGES						
542	Rent for leased roads and equipment	$ 381,154	$ 389,742	$ 395,352	$ 406,792	$ 410,806	$ 281,195
546	Interest on funded debt:						
	(a) Fixed interest not in default	3,350,046	3,482,036	3,615,234	3,912,026	3,770,668	2,588,039
548	Amortization of discount on funded debt	117,905	134,324	146,166	158,940	153,511	102,667
	Total fixed charges	3,849,105	4,006,102	4,156,752	4,477,758	4,334,985	2,971,901
	Net income after fixed charges	21,813,659	20,354,622	18,694,481	15,131,997	17,032,672	9,613,652
	VI. DISPOSITION OF NET INCOME						
552	Income applied to sinking and other reserve funds	1,703,375	1,703,375	1,512,208	—	—	—
	Total appropriations of income	1,703,375	1,703,375	1,512,208	—	—	—
602	Balance of income transferred to Retained Income—Unappropriated	$ 20,110,284	$ 18,651,247	$ 17,182,273	$ 15,131,997	$ 17,032,672	$ 9,613,652

	Common—[illegible] par value ([illegible] shares issued or nominally issued, less 91,945 shares nominally issued and reserved for stock options)	—	—	—	74,948,000	74,948,000
	Atlantic Coast Line Railroad Company:					
	Common—without par value (2,700,481 shares issued or nominally issued, less 64,750 shares nominally issued and reserved for stock options)	—	95,195,761	95,195,761	(95,195,761)	—
	Preferred—$100 par value (1,554 shares issued)	—	155,400	155,400	(155,400)	—
	Total capital stock outstanding	96,743,840	95,351,161	192,095,001	(20,403,161)	171,691,840
	Capital surplus:					
(795)	Paid-in surplus	—	5,360	5,360	—	5,360
(796)	Other capital surplus	200,561	9,550,897	9,751,458	20,403,161	30,154,619
	Total capital surplus	200,561	9,556,257	9,756,818	20,403,161	30,159,979
	Retained income:					
(797)	Retained income — Appropriated	1,235,160	—	1,235,160	—	1,235,160
(798)	Retained income — Unappropriated	131,133,065	241,465,625	372,598,690	—	372,598,690
	Total retained income	132,368,225	241,465,625	373,833,850	—	373,833,850
	Total shareholders' equity	229,312,626	346,373,043	575,685,669	—	575,685,669
	TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY	$378,803,023	$561,067,647	$939,870,670	$ —	$939,870,670

( ) Denotes reduction